

REMARKS

This amendment is offered in response to the Office Action of September 17, 2010.

I. Status of the Claims

Claims 1, 19, and 20 are amended without the introduction of new matter.

Claims 2-6 are cancelled.

Claims 1 and 7-20 are pending.

II. Rejections of Claims 1, 7-20 under 35 U.S.C. § 103

Claims 1 and 7-20 are rejected as obvious under 35 U.S.C. §103(a) as obvious over Gotoh et al. (U.S. Patent No. 6,071,391 - "Gotoh") in view of the following secondary references alone or in combination, Hodges (WO2003/032411-"Hodges"), Heller (U.S. Patent No. 6,143,164 - "Heller"), Leong et al. (U.S. Patent No. 6,837,988 - "Leong"), and Nakagawa et al. (WO03/025558 with reference to English equivalent U.S. Patent No. 7,390,391 - "Nakagawa")

The independent claims 1, 19, and 20 have been amended by incorporating the elements of dependent claim 4. More specifically, the spacing between one electrode and the second plate being spaced from each other by a facing distance that is no greater than the thickness of the electron release region, the facing distance being between 25 and 45 μm . Support for this amendment is found in claim 4. No new matter is being added.

As noted by the Examiner in the present Office Action, Gotoh discloses a spacer having a thickness range of 100 μm to 500 μm . See for example Column 3, line 43 of Gotoh. The

spacing is far greater than the distance claimed in the amended independent claims and the claimed range of 25 μ m to 45 μ m is not within the general range or a wider range disclosed in Gotoh. Further, this range of facing distance has allowed to precisely measure in short time, the glucose concentration with little effect from blood temperature or hemocytes in the blood. See working examples disclosed in page 26 line 24 to page 35, line 26 of the specification.

Further Heller and Hodges also fails to teach or suggest the “electron release region” that must be of a specific range as recited in the amended claims. Hodges refers only to the spacing between the two opposing electrodes 32 and 34 of the Figures 1 and 2. See page 11 lines 11-19, page 7 lines 28-36, and Figures 1 and 2 of Hodges. Hodges is silent on the specific thickness of the electron release region above the electrode 32. Heller also fails to disclose the relationship between the electron release region relative to the spacing between the working electrodes 22 and the inert base 30. See Figure 10 and column 10, lines 30-54 of Heller.

Heller and Hodges fails to address the importance of the distance between one of the electrodes and the second plate, which is the electron release region, being in the range of 25 μ m to 45 μ m. Additionally, the other secondary references, Leong and Nakagawa also fail to disclose this element more clearly claimed in the amended independent claims.

Since Heller, Hodges, Leong, and Nakagawa fails to disclose the element found in the amended independent claims 1, 19, and 20 and missing in the disclosure of Gotoh, all of the pending claims are not obvious over Gotoh alone or in combination with the secondary

references. Withdrawal of the rejection of claims is respectfully requested for the above reason.

CONCLUSION

It is believed, for the foregoing reasons, that the present claims are in condition for allowance, and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned if the Examiner has any questions.

A request for three months extension of time, a request for continued examination, and fees are enclosed. Applicant does not believe that there are no additional fees due. However, if any additional fees are due, please charge such sums to Deposit Account: 50-1145.

Respectfully submitted,

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